



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,386	05/03/2001	Bernd Michaelis	010458	8210
7590 COLLARD & ROE, P.C. 1077 Northern Boulevard Roslyn, NY 11576			EXAMINER DOUGLAS, STEVEN O	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 04/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/849,386

Applicant(s)

MICHAELIS ET AL.

Examiner

/Steven O. Douglas/

Art Unit

3771

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

It is acknowledged that the substitute specification filed 2/8/08 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is indefinite as to the content of the algorithms, matching processes or correlation algorithms to enable the image sequences as disclosed on page 12, lines 20-27. It is acknowledged that one possibility of calculating surface points is based on a principal called block matching as added by amendment. However, the details regarding this principal is lacking in the disclosure and exactly how (and details in regard thereto) one of ordinary skill would apply such principal to make the instant device (i.e. the described principal appears to be too abstract or vague to ascertain require design details).

It is indefinite as to the details of the offset and lightness correction or the neuronal net manner to minimize the affect of scaling as disclosed on page 13, lines 11-25. It is acknowledged that one possible conventional method of comparing images to a reference image is described on page 13 , line 18-25. However, the amended details regarding this so called

“conventional method” is lacking adequate details as to exactly how one of ordinary skill would apply such principal to make the instant device (i.e. again, the described “conventional method” appears to be too abstract or vague to ascertain require design details).

It is indefinite as to the details of the second operational step performed by a local computer or neuronal net to determine the surface measurement data of the skin anomaly as disclosed on page 14, lines 6-25. Applicant’s added details in regard to a simplified description of a multi-layer system of characteristic data assigned to an image in two dimensions is acknowledged. However, the details regarding this multi-layer system is lacking in the disclosure and exactly how (and details in regard thereto) one of ordinary skill would apply such amended details to make the instant device (i.e. the described principal appears to be too abstract or vague to ascertain require design details).

It is indefinite as to the content of the algorithms and/or a selection of suitable comparative data from at least one data base to carry out the third operational or process step as disclosed on page 15, lines 6-9. Furthermore is indefinite as to the function or use of the third operational or process step. It is acknowledged that Applicant has amended the specification to state that the third operational step is similar to the second operational step. However, exactly what these similarities are cannot be readily ascertained in order to make the instant device by one of ordinary skill in the art.

Response to Arguments

Applicant's arguments filed 2/8/08 have been fully considered but they are not persuasive. Examiner's position with respect to the arguments to Examiners rejection made under 112, first paragraph, have been incorporated in the modified rejection stated above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Steven O. Douglas/ whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven O. Douglas/
Primary Examiner
Art Unit 3771

SD
4/18/08